United Nations S/2002/793

Security Council

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Letter dated 18 July 2002 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 10 April 2002 (S/2002/398).

The Counter-Terrorism Committee has received the attached supplementary report from Bulgaria, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I should be grateful if you could arrange for this letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

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Annex

Letter dated 5 July 2002 from the Permanent Representative of Bulgaria to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

I have the honour to submit herewith the supplementary report requested by the Counter-Terrorism Committee (your letter dated 1 April 2002) in compliance with paragraph 6 of resolution 1373 (2001).

(*Signed*) Stefan **Tafrov**
Ambassador
Permanent Representative

Enclosure

Supplementary report to the national report on counter-terrorism activities of the Republic of Bulgaria in implementation of resolution 1373 (2001) of the Security Council on measures to be adopted by the United Nations Member States for the suppression of terrorism

In implementation of Article 6 of Resolution 1373 (2001) and in response to the letter of the Chairman of the Counter-Terrorism Committee, # S/AC.40/2002/MS/OC.31 of 1 April 2002 we hereby provide the answers to the additional questions regarding the National Report on Counter-Terrorism Activities undertaken by the Republic of Bulgaria in Implementation of Resolution 1373 (2001).

Sub-paragraphs 1 (b) and (c):

Please provide the CTC with a progress report and an outline of the proposed amendments to the Criminal Code containing a special text on terrorism and of the draft Law on Suppression of Terrorism, introducing a mechanism for freezing financial assets, as referred to in sub-paragraph 1 (e) of the report. Will these new legal provisions provide for freezing of the whole range of funds and other financial assets or economic resources mentioned in sub-paragraph 1 (c)?

The draft amendment to the Criminal Code, which along with the other texts, introduces a legal definition of "terrorism", was approved by the Council of Ministers on 11 April 2002 and since May 2002 has been under discussion at the permanent commissions of the National Assembly. It is expected to be adopted by the beginning of September 2002.

The definition of this concept, in accordance with the draft, has been also envisaged in the draft Law on Measures against Financing of Terrorism, which was approved by the Council of Ministers on 13 June 2002 and has been put forward for consideration by the National Assembly.

The purposes of this law are to prevent and detect financing of terrorism perpetrated by any person or entity. Pursuant to the law, all funds, financial assets and property owned or controlled by persons included in a list adopted by the Council of Ministers shall be frozen, regardless of the fact in whose possession they are. Exempt are only property rights, which according to the legislation in force, cannot be subject to judicial impediment. The Minister of the Interior and the Minister of Finance are entrusted to enforce the law.

Sub-paragraph 1 (d):

- **The report states that the Financial Intelligence Agency has prepared measures for broadening the scope of the system for reporting operations. Please explain if these measures will have the force of law.**

- **Does Bulgaria intend to create legal safeguards to prevent funds received by non-profit organizations such as charities, from being diverted from their stated purposes, for example, to purposes connected with terrorist activities?**

- **The report indicates that measures to identify unlawful systems of alternative payments are being worked out and applied. Please provide additional information on the measures proposed. Do those measures include the regulation by law of alternative payment systems?**

- **Please provide further information on the Ministry of Finance's motion on amendments mentioned in sub-paragraph 1(e) of the report?**

- The measures for broadening the scope of the system for reporting suspicious operations are envisaged in the draft Law on Measures against Financing of Terrorism. An obligation has been created for persons under the Law on Measures against Money Laundering to also report on suspicious operations considered risky in terms of financing terrorist activities. The requirements for identifying, recognizing the customer, keeping the records and reporting according to the Law on Measures against Money Laundering are also applicable in terms of financing terrorism.

- The non-profit organizations are entities, obliged to report under the Law on Measures against Money Laundering. With respect to them such an obligation will arise with the adoption of the Law on Measures against Financing of Terrorism. As entities obliged under these laws they are subject to the control and the sanction competency of both the Financial Intelligence Agency and the Ministry of the Interior under the Law on Measures against Financing of Terrorism.

- The activity concerning payments is regulated in the Law on Banks and the Law on Postal Services. According to the Law on Banks, operations on non-cash payments and clearing of checking accounts of other persons can be carried out only by a bank, licensed and supervised according to the legislation in force. Carrying out bank transactions without a license is considered a crime according to Article 252, paragraph 1 of the Criminal Code. According to the Law on Postal Services, postal monetary transfers are a part of the universal postal service, however their conduct requires license issued by the Commission on Regulating Telecommunications.

Sub-Paragraph 2 (c) :

- **Are there any legal provisions for excluding or expelling terrorists from Bulgarian territory?**

The legal provisions for excluding and expelling terrorists from the territory of the Republic of Bulgaria are contained in the Foreign Nationals Act of the Republic of Bulgaria /promulgated in the State Gazette, issue 153/1998, in force since 27 December 1998, amended in issue 70 of 6 August 1999, in force since 1 January 2000, amended in issue 42 of 27 April 2001, issue 112 of 29 December 2001, in force since 1 January 2002, amended in issue 45 of 30 April 2002, in force since 30 April 2002/.

According to this act, a visa and entry into the country shall be denied to any foreign national for whom there is information that he/she is a member of a criminal group or organization or is involved in a terrorist activity, illicit trafficking and trade in arms, explosives, ammunitions, strategic raw materials, dual use goods and technologies as well as illicit trafficking in intoxicating and psychotropic substances and precursors and raw materials for their production (Article 10, para. 1, sub-para. 3). In these cases, a ban shall be also imposed on the entry in the Republic of Bulgaria (Article 42a).

According to Article 40, para. 1, sub-para. 2 of the same act the foreign national shall be denied the right to stay in the Republic of Bulgaria if there are grounds under Article 10. According to Article 42, expelling foreign nationals is imposed when their presence in the country represents a serious threat to the national security and public order.

According to Article 12 of the Refugees Act, a refugee status or a humanitarian status shall not be granted, and a foreign national shall be deprived of already granted refugees status or humanitarian status:

1. 1. when there are serious grounds to suppose that he/she has committed an act, which, according to the Bulgarian laws and international agreements to which the Republic of Bulgaria is a party, is defined as a war crime or as a crime against peace and humanity;

2. 2. when there are serious grounds to suppose that he/she has committed a severe criminal offence of non-political nature outside the territory of the Republic of Bulgaria;

3. 3. when there are serious grounds to suppose that he/she commits or incites acts contrary to the purposes and principles of the United Nations.

In these cases the Agency for Refugees sends an immediate notice to the Ministry of the Interior which is competent to impose the compulsory administrative measure "expelling" under the Foreign Nationals Act of the Republic of Bulgaria.

Sub-Paragraph 2 (e):

- **Please clarify what are the penalties attached to the crimes constituting terrorist acts under the Bulgarian Criminal Code.**

- **Are all the relevant provisions of the Criminal Code applicable in all of the following circumstances:**

  - **acts committed outside Bulgaria by a person who is a citizen of, or habitually resident in Bulgaria (whether that person is currently present in Bulgaria or not);**

  - **acts committed outside Bulgaria by foreign national who is currently in Bulgaria?**

- According to Article 93, sub-paragraph 7 of the Criminal Code, "severe criminal offence" is a crime for which the law envisages a penalty of imprisonment for more than five years, life imprisonment or life imprisonment without appeal.

Bearing in mind this provision, the corpora delicti in the Special Part of the Criminal Code, which constitute terrorist acts are included under the category severe criminal offences.

According to the Criminal Code, the following penalties are attached to the crimes constituting terrorist acts:

- - depriving of life and inflicting a severe bodily injury to a state or public figure aimed at undermining or weakening the authority or obstructing its power: imprisonment up to twenty years, life imprisonment or life imprisonment without appeal (Article 96, para. 1);

  - severe bodily injury to a state or public figure aimed at undermining or weakening the authority or obstructing its power: imprisonment from five to fifteen years (Article 96, paragraph 2);

  - causing death to one or more persons by fire, explosive, inundation or another dangerous act aimed at undermining or weakening the authority or obstructing its power: imprisonment up to twenty years, life imprisonment or life imprisonment without appeal (Article 96, para. 3);

  - holding a hostage, whose release is dependant on fulfillment of a certain condition by the state, a state or public organization or a third person aimed at undermining or weakening the authority or obstructing its power: imprisonment from three to fifteen years (Article 97a);

  - depriving of life a representative of a foreign state aimed at instigating a war or international complications against the Republic: imprisonment from ten to twenty years, life imprisonment or life imprisonment without appeal (Article 99, para. 1);

  - severe bodily injury to a representative of a foreign state aimed at instigating a war or international complications against the Republic: imprisonment from ten to fifteen years (Article 99, para. 2);

- destroying or damaging public buildings, constructions, installations, equipments, transportation or communication means or other public property of a considerable value aimed at weakening the authority or obstructing its power-sabotage: imprisonment from five to twenty years, life imprisonment or life imprisonment without appeal (Article 106);

- participation, creation or leading an organization or a group, which aims at committing the above mentioned crimes: imprisonment up to twelve years (Article 109, paragraph 1 and 2);

- murdering an official, a representative of the public as well as a serviceman, including one of an allied or friendly state or army, during or in connection with the performance of his duty or function, of a person enjoying international protection as well as murdering in a way or by means dangerous to the life of many: imprisonment from fifteen to twenty years, life imprisonment or life imprisonment without appeal (Article 116, para. 1, sub-para. 1 and 6);

- setting on fire a building, ..., machines, a mine or other property of a considerable value, with qualified corpus, when the fire represents a danger to the life of another person or the property set on fire has a historic, scientific or artistic value: imprisonment from one to fifteen years (Article 330, paragraph 1-3);

- damaging or destroying the property under Article 330 by an explosive: imprisonment from one to fifteen years (Article 333);

- causing an inundation and thereby exposing to danger the life or property of another person: imprisonment from three to fifteen years (Article 334, para. 1 and 2);

- damaging rolling stock or railway lines, an aircraft, an automobile, an electric transport vehicle or equipment, or accessories to them, a tunnel, a bridge or a supporting wall on the roads as well as a ship thereby creating danger for the life of another person or for considerable damage of another person's property: imprisonment from five to fifteen years (Article 340, para. 1);

- destroying an aircraft in operation or inflicting on it a damage that make it unfit for flight or endanger its safety in flight: imprisonment from five to twenty years (Article 340, para. 2);

- endangering the safety of an aircraft in flight by destroying or damaging installation or equipment for flight navigation or by providing false information or giving a false signal as well as by putting up a false sign or removing or shifting a sign intended for securing the safety of movement: imprisonment from three to fifteen years (Article 341a, para.2);

- exerting violence against a person on board an aircraft in flight if this act has been of such a nature as to endanger the safety of the aircraft: imprisonment from five to fifteen years (Article 341a, para. 3);

- unlawfully seizing an aircraft on the ground or in flight or taking control over such an aircraft with various qualified corpora for example when it involves force or threat: imprisonment up to twenty years or life imprisonment without appeal (Article 341b, para. 1-3);

- intentionally causing death, bodily injury or considerable property damage in driving a railway rolling stock, an aircraft, a motor vehicle, a vessel, a combat or special machine and violating the traffic regulations: imprisonment from one to twenty years or life imprisonment (Article 342, para.3);

- removing or shifting to another place a sign or signal intended for securing the safety of movement of railway traffic, water transport and electric transport, as well as, putting up such a false sign or

giving a false signal which endangers the life or the property of a person: imprisonment from two to twenty years, life imprisonment or life imprisonment without appeal (Article 349, para. 1 and 2);

- spreading agents of epidemic diseases for the purpose of infecting people: imprisonment from two to twenty years, life imprisonment or life imprisonment without appeal (Article 349, para. 3);

- preparing foodstuffs or drinks intended for public use in such a way that substances, hazardous to human health, are formed or allowed to enter, as well as selling, or otherwise distributing such foodstuffs or drinks: imprisonment up to fifteen years (Article 350);

- polluting or allowing the pollution of water sources, basins, underground waters, territorial and inland sea waters, the soil and the air, thereby, rendering them hazardous to people, animals, and plants or making them unfit for use: imprisonment up to fifteen years (Article 352, para. 1);

- acquiring, holding, appropriating or giving to another person, without due permission, highly active or poisonous substance, which is not narcotic, placed under permit regime, as well as, violating rules regulating the production, acquisition, safekeeping, accounting, prescribing, transportation or carrying of such substances: imprisonment up to three years (Article 354);

- damaging nuclear material, nuclear equipment or another source of ionizing radiation, thus causing considerable property damage or damage to the environment or creating danger for the life and health of another person: imprisonment from five to fifteen years; In case that death was caused, the penalty shall be imprisonment from ten to twenty years, life imprisonment or life imprisonment without appeal (Article 356e).

In accordance with Article 110, 117 and 356a of the Criminal Code, the preparation of the above mentioned crimes shall also be punished (the penalty for preparation of these crimes shall be imprisonment up to five or from three to eight years).

The draft Law on Amendment to the Criminal Code, whose adoption is forthcoming, envisages a new corpus delicti — Article 108a, para.1, covering 23 severe criminal offences, designed to fulfill special purposes, are defined as terrorist acts. According to the draft law, the sanction for terrorism is imprisonment from five to fifteen years and in the case of inflicted death — imprisonment from fifteen to thirty years, life imprisonment or life imprisonment without appeal.

According to para. 2 of Article 108a, gathering and supplying means for perpetration of terrorist acts is considered a crime and the envisaged punishment is imprisonment from three to fifteen years and a fine of 30 000 BGL.

According to para. 3 of Article 108a, the object of the crime under para. 2 shall be confiscated.

According to Article 110 of the draft, the preparation for perpetration of the crime under Article 108a, para. 1 is considered a crime, thereby, imprisonment up to six years is envisaged.

According to Article 114 of the draft, the court may enact confiscation of a part or the whole property of the guilty under Article 108a.

According to Article 320, para. 2 of the draft, instigation of a crime under Article 108a, para. 1 is considered a crime, thereby, the punishment is imprisonment up to six years.

According to the draft, the threat to commit a crime under Article 108a, para. 1 is considered a crime and Article 320a envisages for such a crime imprisonment up to two years.

- According to Article 3, para.1 of the Criminal Code, it is applicable to all crimes, committed on the territory of the Republic of Bulgaria. The Criminal Code is applicable to Bulgarian citizens for crimes committed by them outside the country (Article 4, para. 1); to foreign nationals who have committed crimes outside the country, but these crimes affect the interests of the Republic of Bulgaria or of Bulgarian citizens (Article 5); to foreign nationals who have committed crimes against peace and humanity outside the country and, thus, affect the interests of another country or foreign citizens (Article 6, para. 1); as well as, other crimes committed by foreign nationals outside the country, when this is envisaged in an international agreement to which the Republic of Bulgaria is a party.

Moreover, according to Article 356b, a foreign national who makes preparations on the territory of the Republic of Bulgaria to perpetrate generally dangerous crimes outside the country (which might as well be terrorist acts) shall be punished by imprisonment up to five years. If for the same purpose an organization or a group has been set up, the punishment shall be imprisonment from one to six years, and for the organizers and the leaders – from three to eight years.

Sub-Paragraph 2 (f):

- **Apart from the European Convention on Mutual Assistance in Criminal Matters, to which agreements on co-operation and assistance in judicial and criminal matters is Bulgaria party?**

Apart from the European Convention on Mutual Assistance in Criminal Matters, Bulgaria is also party to the European Convention on the Suppression of Terrorism, the European Convention on Extradition, the European Convention on Transfer of Convicted Persons (the above mentioned conventions have been adopted within the framework of the Council of Europe). Moreover, the Republic of Bulgaria is party to a number of multilateral conventions which regulate legal assistance,, as well as extradition on respective criminal cases (OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, Criminal Law Convention of the Council of Europe on Corruption, the UN Convention against Transnational Organized Crime and the two additional protocols).

Moreover, Bulgaria has concluded 24 bilateral agreements for legal assistance in criminal matters (Azerbaijan, Armenia, Algeria, Viet Nam, Georgia, Greece, Spain, Yemen, Cyprus, China, Korea, Kuwait, Cuba, Libya, Mongolia, Poland, Romania, Syria, the former Soviet Union, FR of Yugoslavia, Turkey, Tunisia, Hungary, Czechoslovakia);

Sub-Paragraph 2 (g):

- **Does the inter-agency mechanism for collecting, processing and spreading information on preparation for or commission of terrorist acts, mentioned in the reply to sub-paragraph 2(a), also provide for co-operation with border and narcotics control authorities, in regard to border control?**

Under the Ministry of the Interior, a National Service for Detecting and Preventing Terrorist Activities on the Territory of the Republic of Bulgaria has been established and has been functioning since October 2001, which collects, analyzes and processes information, supplied by the relevant competent institutions.

The analyses made on the basis of the acquired information are available for use by all interested institutions and organizations, including the border and narcotic control authorities.

Sub-paragraph 3 (c):

- **Please describe how the international conventions and protocols to which Bulgaria is a party have been incorporated into domestic law.**

In accordance with Article 5, paragraph 4 of the Constitution of the Republic of Bulgaria, the ratified international agreements become part of the domestic law and have priority to those norms of the domestic legislation which contradict them.

According to the information provided on sub-paragraph 2 (e), it becomes clear that criminal penalties are envisaged in the Criminal Code for acts considered crimes under the international conventions. Moreover, the Code of Criminal Procedures envisages that in reference to the legal assistance in criminal matters and extradition, the provisions of the international agreements have priority to the rules of this Code.

Sub-Paragraph 3 (e):

- **Please provide a progress report on the ratification of the Convention for the Suppression of the Financing of Terrorism.**

- **Please indicate whether the crimes set forth in the relevant international conventions have been included as extraditable offences in the bilateral treaties which Bulgaria has concluded with other countries.**

- The international Convention for the Suppression of the Financing of Terrorism, signed on 19 March 2001 in New York, was ratified by law, promulgated in the State Gazette, issue 11 of 31 January 2002, the instrument of ratification was deposited in the UN on 15 April 2002.

- The criminal offences under the relevant international conventions are included in the bilateral agreements as crimes for which extradition can be requested.

Sub-Paragraph 3 (f):

- **Please provide a progress report on the draft law on asylum and refugees which is under preparation.**

The Law on Asylum and Refugees was adopted by the National Assembly on 16 May 2002 and was promulgated in issue 54 of the State Gazette. It will enter into force 6 months after its publication – on 1 December 2002 and will repeal the current Refugees Act.

Sub-Paragraph 4:

- **Has Bulgaria addressed any of the concerns expressed in paragraph 4 of the resolution?**

Bulgaria recognizes the close connection between international terrorism and transnational organized crime in all its forms, and in this regard emphasizes the need to enhance coordination of efforts on national, sub-regional, regional, and international levels in order to strengthen a global response to this serious challenge and threat to international security. The bilateral and multilateral agreements, concluded by the country to which the Republic of Bulgaria or the Ministry of the Interior are party, contain clauses for cooperation in combating international terrorism and transnational organized crime. Annex 1 contains the main agreements which are directly related to that issue.

The possibility for a membership of the Republic of Bulgaria in the Financial Action Task Force /FATF/ or obtaining a possible status as an observer to this organization is under consideration.

A Regional policy forum entitled International Cooperation in Countering Terrorism was held in Sofia on 27 June 2002. Within the framework of Round Table I the issue on Suppressing Terrorism and Transnational Organized Crime was discussed.

Other matters:

- **Could Bulgaria please provide an organizational chart of its administrative machinery, such as police, immigration control, customs, taxation and financial supervision authorities, established to give practical effect to the laws, regulations and other documents that are seen as contributing to compliance with the resolution.**

We are bringing to your attention the organizational charts of the main institutions involved in the fight against terrorism:

1. Ministry of the Interior of the Republic of Bulgaria – Annex 2.
2. Financial Intelligence Agency – Ministry of Finance – Annex 3.
3. Customs Agency – Ministry of Finance – Annex 4.
4. General Tax Directorate – Ministry of Finance – Annex 5.
5. Agency for Refugees – Council of Ministers – Annex 6
6. State and Local Financial Control – Ministry of Finance – Annex 7.

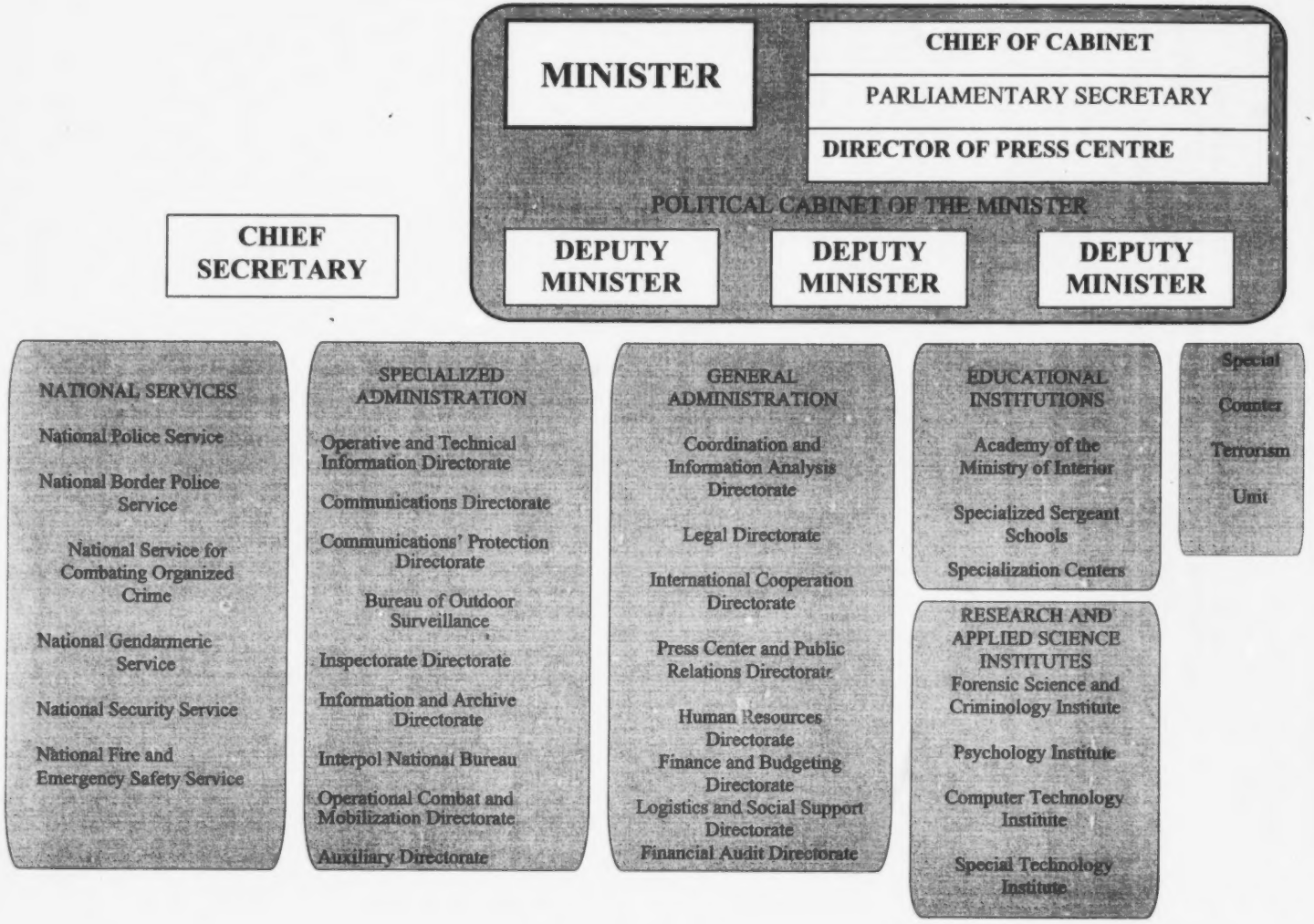
Annex 1

LIST OF BILATERAL AND MULTILATERAL INTERNATIONAL AGREEMENTS CONTAINING CLAUSES ON COOPERATION IN COMBATING INTERNATIONAL TERRORISM AND TRANSNATIONAL ORGANIZED CRIME*

* Annex 1 is on file with the Secretariat and is available for consultation.

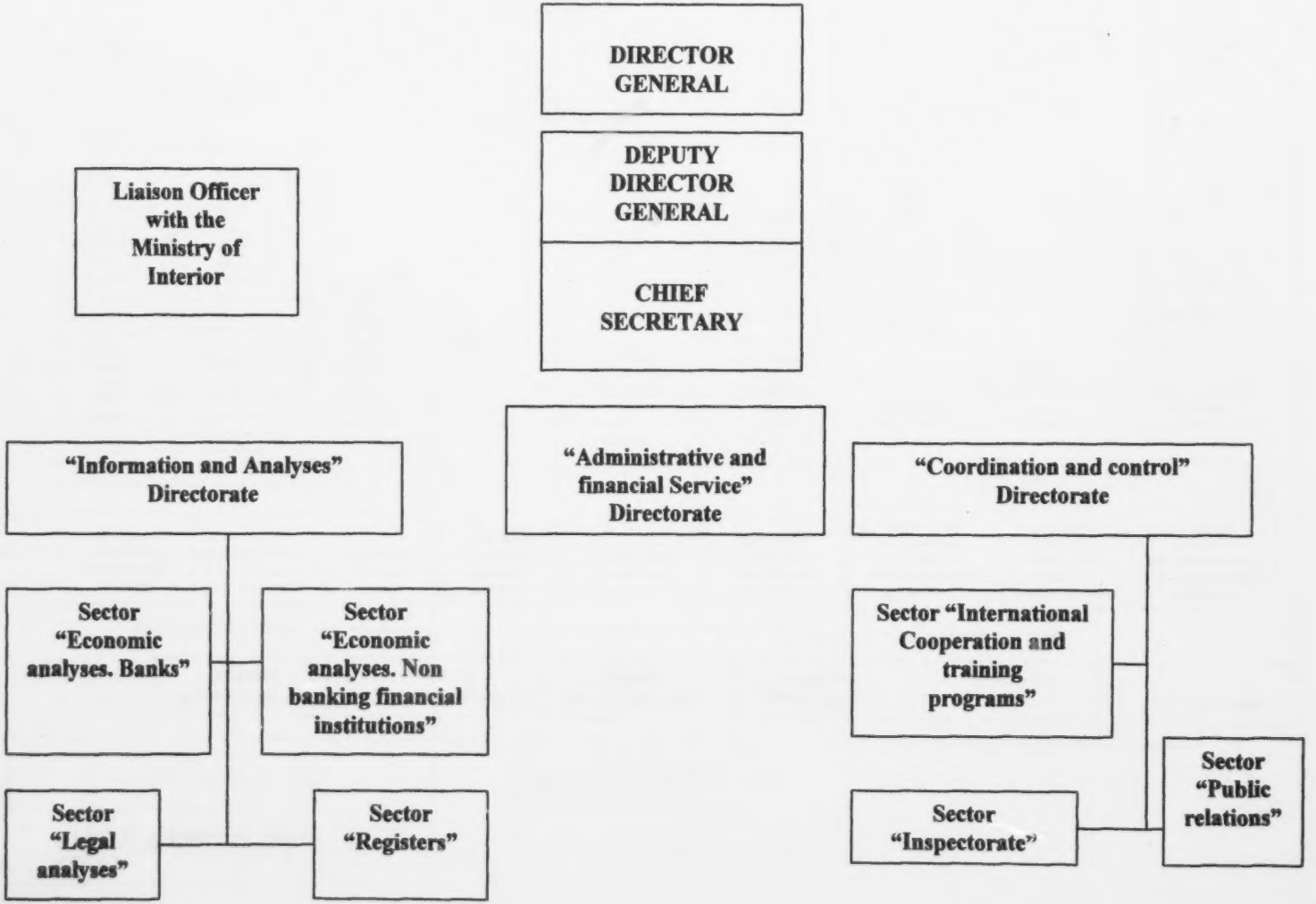
Annex 2

MINISTRY OF INTERIOR OF THE REPUBLIC OF BULGARIA



Annex 3

STRUCTURE
BUREAU OF FINANCIAL INTELLIGENCE AGENCY



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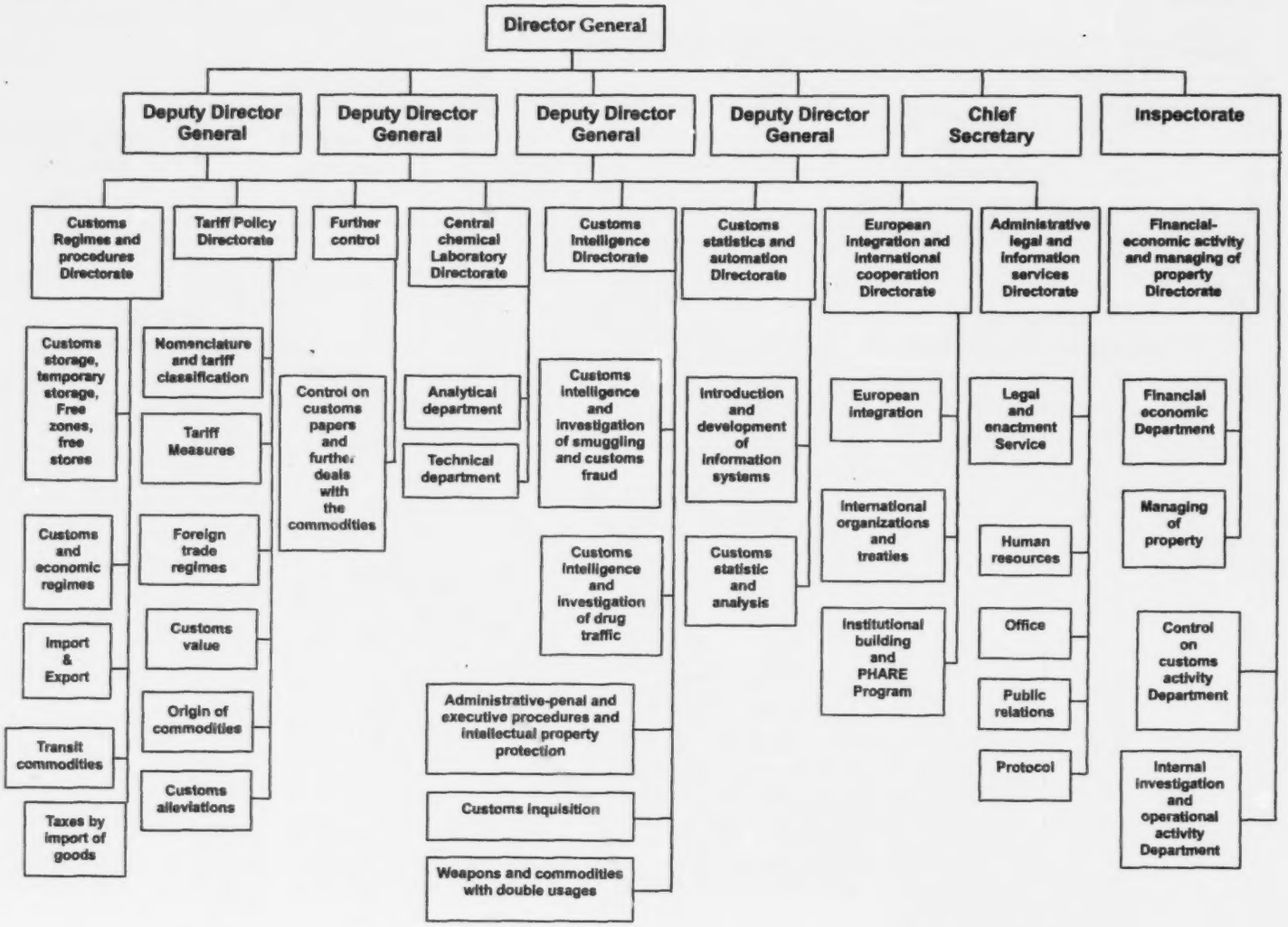
Annex 4
Structure of Customs Agency



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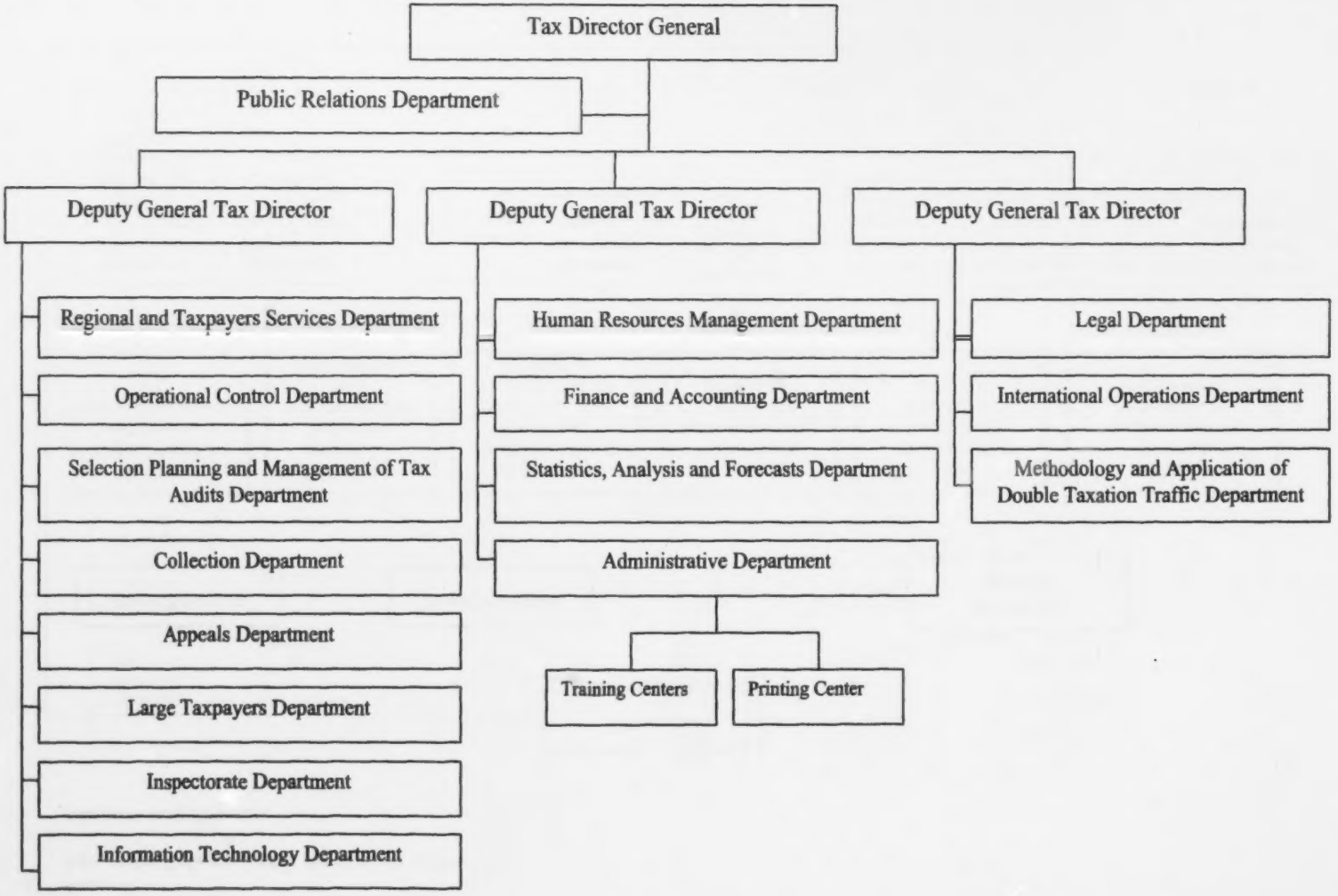
Annex 5

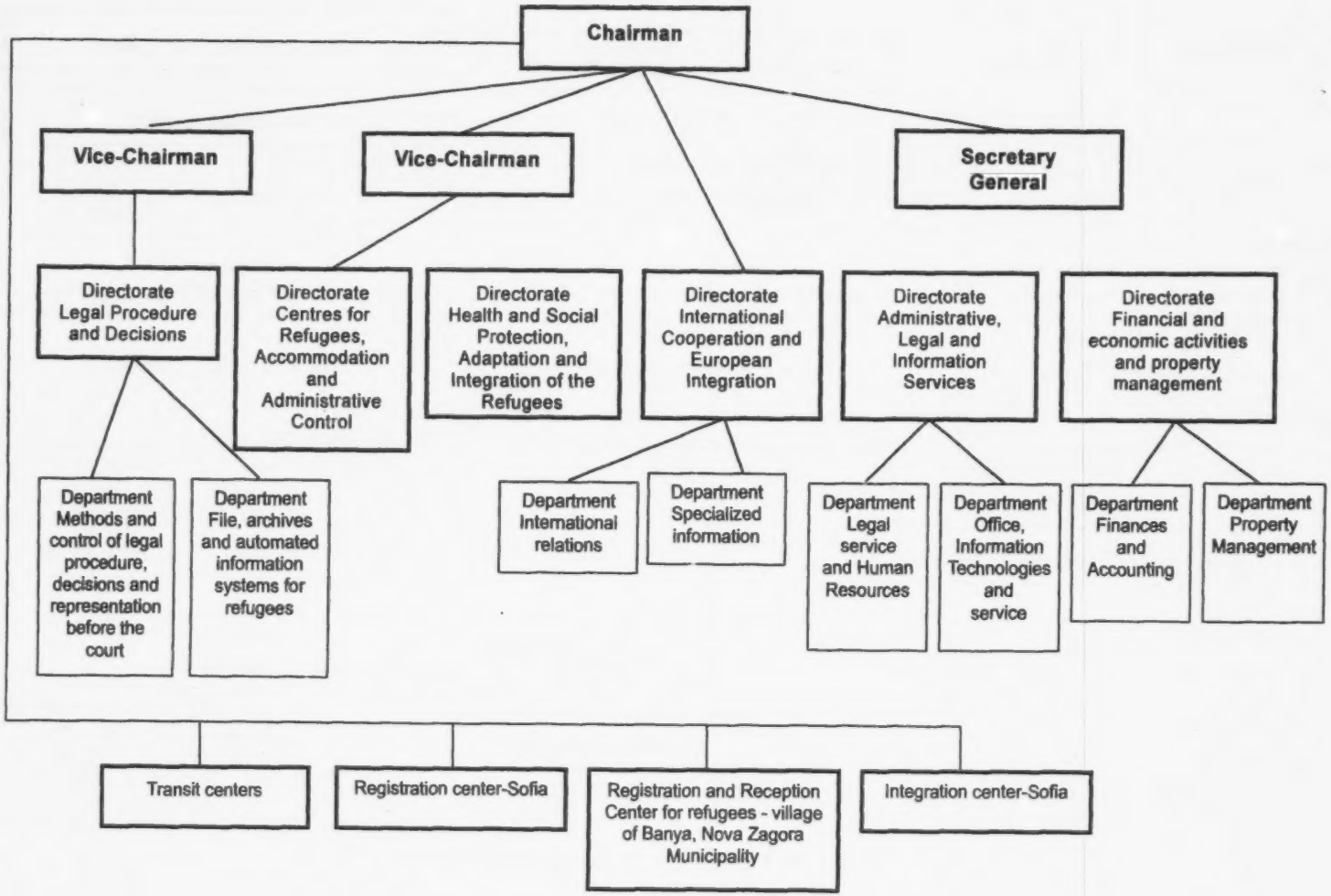
Financial Structure of the General Tax Directorate



Annex 6

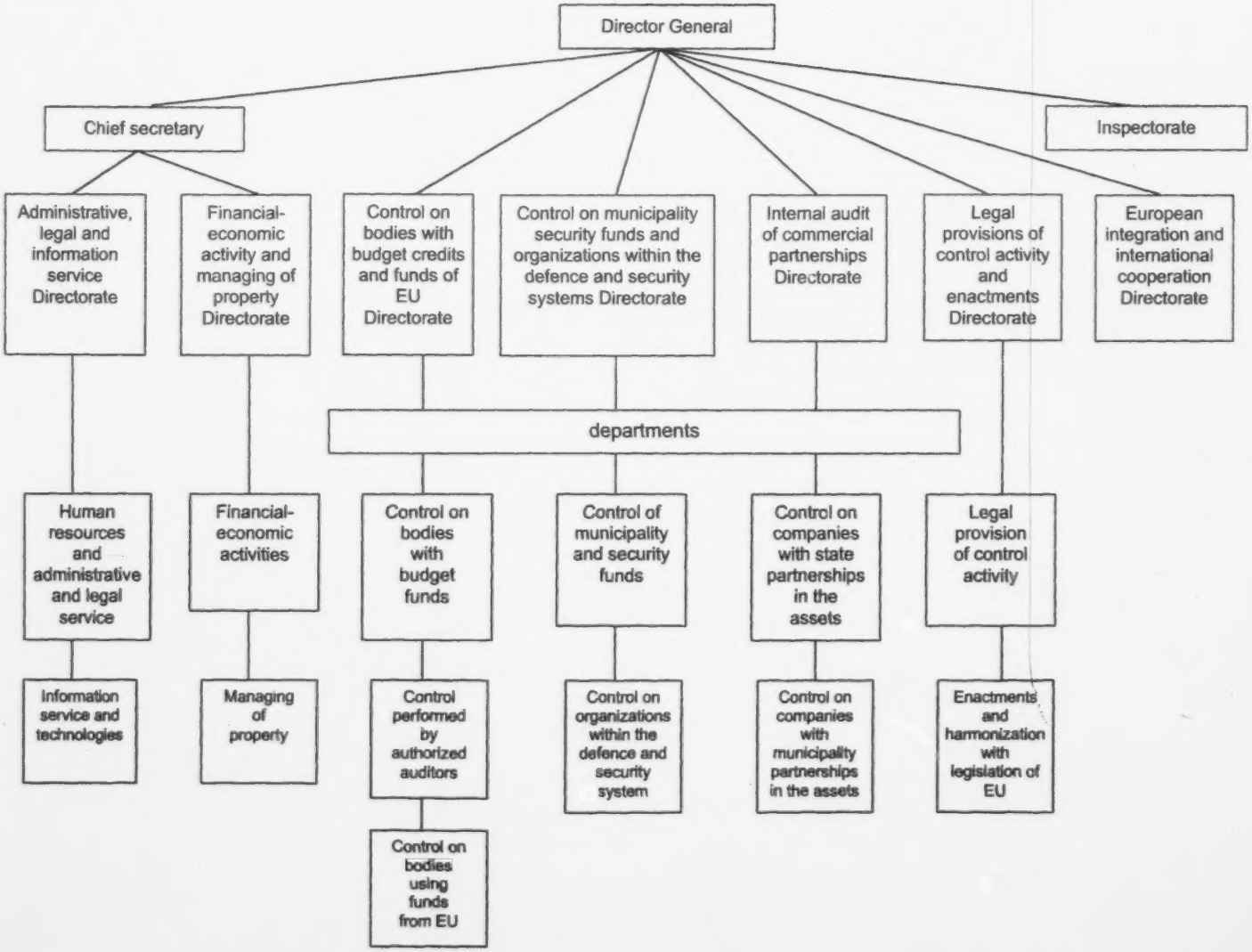
Agency for Refugees under the Council of Ministers

Administrative Structure


Chairman
Vice-Chairman
Vice-Chairman
Secretary General
Directorate Legal Procedure and Decisions
Directorate Centres for Refugees, Accommodation and Administrative Control
Directorate Health and Social Protection, Adaptation and Integration of the Refugees
Directorate International Cooperation and European Integration
Directorate Administrative, Legal and Information Services
Directorate Financial and economic activities and property management
Department Methods and control of legal procedure, decisions and representation before the court
Department File, archives and automated information systems for refugees
Department International relations
Department Specialized information
Department Legal service and Human Resources
Department Office, Information Technologies and service
Department Finances and Accounting
Department Property Management
Transit centers
Registration center-Sofia
Registration and Reception Center for refugees - village of Banya, Nova Zagora Municipality
Integration center-Sofia

Annex 7

Central Office of the "State and Local Financial Control" Agency, Sofia


Director General
Chief secretary
Inspectorate
Administrative, legal and information service Directorate
Financial-economic activity and managing of property Directorate
Control on bodies with budget credits and funds of EU Directorate
Control on municipality security funds and organizations within the defence and security systems Directorate
Internal audit of commercial partnerships Directorate
Legal provisions of control activity and enactments Directorate
European integration and international cooperation Directorate
departments
Human resources and administrative and legal service
Financial-economic activities
Control on bodies with budget funds
Control of municipality and security funds
Control on companies with state partnerships in the assets
Legal provision of control activity
Information service and technologies
Managing of property
Control performed by authorized auditors
Control on organizations within the defence and security system
Control on companies with municipality partnerships in the assets
Enactments and harmonization with legislation of EU
Control on bodies using funds from EU

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